

Section 830 - Tree Removal, Grading and Excavations

830.01 Purpose. The Council finds and declares that the lands and vegetation of the City are a valuable resource requiring protection from the effects of urbanization. The purpose of this Section is to regulate land disturbing activities to prevent undue loss of the urban forest, reduce erosion and sedimentation and enhance the natural beauty of the City in the interest of the health, safety and welfare of the residents.

830.02 Definitions.

Subd. 1 **Terms Defined in Section 850.** The following terms shall have the meanings stated in Section 850 of this Code:

District.

Lot.

Parcel.

Principal Building.

R-1 District.

R-2 District.

Subd. 2 **Terms Defined in this Section.** Unless the context clearly indicates otherwise, the following terms shall have the meanings as stated:

Earth. Soil, rocks, rip-rap, gravel, sand, soil, and all similar material.

Grading. Any movement of earth, including without limitation, any excavation, stockpiling, land disturbing activity, cutting, filling, or any combination of movement.

Open Pit or Excavation. Any grading creating a depression exceeding 200 square feet in area, the bottom or lowest point of which is two feet or more below the immediately adjoining unexcavated land. A swimming pool as defined by Section 450 of this Code is not an open pit or excavation for purposes of this Section.

Tree. A woody, perennial plant usually with one main stem or trunk and with many branches, which has a diameter of greater than six inches when measured at a point four feet above ground level.

830.03 Activities Requiring a Permit. Except as provided in Subsection 830.04, no person shall engage in any of the following activities without first obtaining a permit:

Subd. 1 **Tree Removal.** Removal of a living tree or trees from a lot or parcel not improved with a principal building.

Subd. 2 **Grading.** Grading in connection with any one project involving more than:

A. Ten cubic yards of earth in the aggregate on a lot located in the R-1 District or R-2 District which lot is used or intended to be used for a single dwelling unit or double dwelling unit building.

B. 100 cubic yards of earth in the aggregate on two or more lots in the R-1 District or R-2 District, or on any lot, parcel, or development site in any other District.

Subd. 3 **Open Pit or Excavation.** The creation or maintenance of an open pit or excavation.

830.04 Exempt Activities. The provisions of this Section shall not apply to:

Subd. 1 **Special Permit.** Activities for which a special permit has been granted in accordance with Subsection 850.21 of this Code.

Subd. 2 **Restored Ground.** Grave digging, well drilling and utility excavations where the ground will be restored.

Subd. 3 **Diseased Trees.** Removal of trees with Dutch Elm disease, oak wilt or other diseases requiring tree removal.

Subd. 4 **Top Soil.** Top soil placed for top dressing purposes which is immediately spread and which does not materially change the elevation of the lot or parcel.

830.05 Permit.

Subd. 1 **Application.** Prior to engaging in any activity requiring a permit, an application shall be submitted to the Building Official on forms provided by the Building Official. The application shall be accompanied by a schedule for the commencement and completion of the work. The application shall be accompanied by the fee in the amount set forth in Section 185 of this Code. The application shall also be accompanied by a plan drawn at a scale of not less than one inch equals 30 feet which contains the following information:

A. Location of trees to be removed.

B. Existing and proposed buildings and structures.

C. Existing and proposed contours.

- D. Provisions for temporary and permanent erosion control.
- E. Proposed revegetation of disturbed area.
- F. Provisions for temporary and permanent drainage.

Subd. 2 **Fees and Surcharges.** Applications for permits pursuant to this Section shall be accompanied by the fees set out in Section 185 of this Code.

A. Other Permit Related Fees. Reinspection fees, inspections outside normal business hours, inspections for which no fee is specifically indicated and fees for additional plan review required by loss, changes, additions or revisions to plans shall be in the amounts set forth in Section 185 of this Code.

B. Investigation Fee. If work for which a permit is required by the code has been commenced without first obtaining a permit, a special investigation shall be made before a permit may be issued for the work. An investigation fee, as authorized by MSBC Chapter 1300.0160 Subp. 8, shall be collected, and is in addition to the required permit fees. The investigation fee shall be equal to the permit fee.

C. Outside Consultant Fees. Plan review, inspections and/or consultation fees for outside consultants may be collected and shall comprise the actual costs to the City.

D. Surcharge. In addition to the fees charged pursuant to Subd. 1 of this Subsection, each applicant for a permit shall pay a surcharge to the City in the amount set forth in M.S. 16B.70 to be remitted to the State Department of Administration pursuant to M.S. 16B.70.”

830.06 Standards and Guidelines. No permit shall be issued unless the above required plan is submitted to and approved by the Building Official and unless the proposed activity complies with the following standards and guidelines:

Subd. 1 **Grading Activities.**

- A. The plan shall be fitted to the topography and soils so as to create the least erosion potential.
- B. Permanent vegetation and improvements such as streets, storm sewers or other features of the development, capable of carrying surface water runoff in a safe manner, shall be installed to the extent possible before removing the vegetation cover from any area.
- C. Wherever feasible, natural vegetation shall be retained and protected.
- D. Permanent vegetation shall be established as soon as possible after grading.

- E. Not more than the smallest practical area of land shall be graded or exposed at any one time during development.
- F. When vegetation is removed during development, the exposed condition of land shall be kept to the shortest practical period of time, but not longer than 60 days.
- G. Critical erosion areas graded or exposed during construction shall be protected with temporary vegetation, mulching or by other means acceptable to the Building Official.
- H. Sediment basins, debris basins, desilting basins or silt traps shall be installed and maintained to remove sediment from surface water runoff from land subjected to grading.
- I. Diversions shall be installed to divert surface water runoff from slopes of ten percent or steeper.
- J. Provisions acceptable to the Building Official or Engineer shall be made to accommodate the increased surface water runoff caused by changed soil and surface conditions during and after completion of grading.
- K. Cut and fill slopes shall not be steeper than two feet horizontal to one foot vertical unless stabilized by a retaining wall, cribbing or rip-rap, or other means acceptable to the Building Official.
- L. During grading operations, measures acceptable to the Building Official shall be taken for dust control.

Subd. 2 **Tree Removal.** Trees shall be removed only by reason of:

- A. Poor health or dangerous condition of the tree.
- B. Construction of improvements being made to the property.

Subd. 3 **Open Pits and Excavations.**

- A. Fences must be installed or other provisions acceptable to the Building Official must be made to prevent persons from inadvertently entering the pit.
- B. Banks must be constructed at slopes not steeper than three feet horizontal to one foot vertical.
- C. Provisions acceptable to the Building Official shall be taken to prevent stagnation of water.

D. Excavated materials must be spread on adjoining ground and revegetated or completely removed from the area.

830.07 Issuance of Permit; Appeal.

Subd. 1 **Approval or Denial.** The Building Official shall review the plan and application and shall approve or deny the application based upon the standards and guidelines set forth in Subsection 830.06 together with the purpose and intent of this Section. If the application is denied by the Building Official, written notice of the action specifying the date of denial, together with the reasons for denial, shall be mailed to the applicant at the address shown in the application. If approved, the Building Official shall issue the permit. The Building Official may impose conditions in connection with issuance of the permit to ensure compliance with this Section and to protect adjacent properties. The Building Official, as a condition to the permit, may require the permit holder to submit topographic surveys on an as-built basis to verify conformance with the approved plans.

Subd. 2 **Permit Nontransferable; Duration.** Any permit granted pursuant to this Section shall be nontransferable and shall expire six months from date of issuance.

Subd. 3 **Appeal.** Any applicant may appeal an alleged error in any order, requirement, decision or determination made by the Building Official in the administration of this Section, to the Council in the manner set forth in Subsection 160.06 of this Code.

830.08 Conformance with Plan. All activities undertaken pursuant to a permit issued under this Section shall conform to the approved plans and schedules and to any conditions imposed by the permit.

830.09 Security. The Building Official may require the permit holder to file security to ensure that all work is undertaken in accordance with the permit and approved plans and schedule set forth in the application. The security shall be in the form prescribed by Subd. 2 of Subsection 405.01 of this Code. Such security may be used by the City to undertake work as provided in Subd. 3 of Subsection 405.01 of this Code.

History: Ord 817 adopted 4-4-74; Ord 821 codified 1970; Ord 822 codified 1970, amended by Ord 822-A1 10-7-71, Ord 822-A2 10-24-74; Ord 823 adopted 4-4-74; Ord 2004-04 adopted 4-29-04

Cross Reference: Sections 185, 850; Subsections 160.06, 405.01, 850.21